

**2002-2003 REVISION COMMITTEE
DWC/WCAB POLICY AND PROCEDURAL MANUAL**

Index Number 6.10.9

**CONFERENCE AND TRIAL MINUTES
AND SUMMARY OF EVIDENCE**

1. Conference Minutes

The WCJ is responsible for the completion of conference minutes for each case assigned to him or her in any conference setting. Hearing reporters are generally not to be used for conferences, and the WCJ shall use, whenever possible, either the Minutes of Hearing form or, if a trial is being set, the Pretrial Conference Statement. The minutes of each conference should be prepared for each case as soon as a disposition is reached, or as soon thereafter as possible.

Regardless of which form is used, or in the event a hearing reporter is used, the minutes for each conference shall contain, at a minimum, the following information, written legibly:

Name of Workers' Compensation Judge
Date, time and place of hearing
Appearances by parties and attorneys
Interim Orders
Stipulations and Issues (trial setting)
Exhibits offered or received into evidence (trial setting)
Disposition

a. When Matter is Not Being Set for Trial

For any disposition other than trial setting, the WCJ shall use the Minutes of Hearing form. The disposition shall clearly specify any one or more of the following: (1) a Compromise and Release or Stipulations with Request for Award have been submitted and approved; (2) a specified number of days is allowed for submission of a Compromise and Release or Stipulations with Request for Award; (3) the matter is continued to another conference; (4) the matter is taken off calendar.

For purposes of this part of the Policy and Procedure Manual, a continuance occurs when a matter set for Mandatory Settlement Conference or other conference is allowed to be set for further conference hearing of any type on a subsequent calendar, and where a matter set for trial is allowed to be set for any type of hearing on a subsequent calendar. For purposes of this part of the Policy

and Procedure Manual, the progression of a case not resolved at a Mandatory Settlement Conference hearing, or other conference hearing, to a trial hearing where testimony is to be received is not a continuance.

Should a matter be taken off calendar or continued for further conference, the appropriate boxes on the Minutes of Hearing form should be checked, and a clear and concise statement of the basis for continuing the matter or taking it off calendar should also be provided. Merely checking the boxes without providing a basis for continuance or off-calendar status in writing may not constitute a sufficient record. The minutes shall be prepared so that they are clear and legible and served on all parties and lien claimants, and their representatives.

Stipulations and/or Interim Order(s) should be included on separate pages and attached to and clearly referenced in the first page of the minutes. The original of the minutes will be placed in the legal file and will become part of the legal file.

The PWCJs may periodically monitor Minutes of Hearings prepared at the direction of the WCJs working under their supervision to ensure that good cause has been shown for Continuance Orders and Orders Taking Off Calendar, and that such good cause is stated in the Minutes or Orders.

b. When Matter is Being Set for Trial

Whenever the parties are unable to resolve an issue or issues, and it is appropriate to set the matter for trial, the WCJ should direct the parties to complete the Pretrial Conference Statement. The WCJ shall ensure that the form is complete and contains the following information for each case being set: (1) the parties' stipulations; including all body parts admitted or claimed (2) the issues raised, including any liens; (3) benefits paid; (4) exhibits; and (5) witnesses.

When the matter has been set for a Mandatory Settlement Conference, the WCJ should take care to ensure that the requirements of Labor Code Sec. 5502 are properly being followed, and that all witnesses and exhibits are clearly identified at the time of the conference. Where good cause is shown, additional time may be allowed to prepare and file excerpts of records following the conference.

The disposition box on the first page of the Pretrial Conference Statement shall be prepared by the WCJ and shall include: (1) any appropriate discovery or other interim orders (additional pages or minutes using a hearing reporter may be utilized where appropriate); (2) the date and time of trial; (3) the WCJ to whom the trial is assigned, and (4) the time allotted for trial.

c. Time Allotted for Trial

Generally, trials should not be set for more than a full day. For good cause shown, however, a trial may be set for two or more consecutive days. More than one day may be required, for example, when it is clear that, based on the complexity of the issues and/or number of witnesses presented that the trial cannot reasonably be completed in one day. A WCJ shall not set a trial for more than one day without the approval of the PWCJ.

c. Pro Per Applicant

In a case involving an applicant appearing in *propria persona*, the WCJ should ensure that the unrepresented applicant understands how to prepare the pretrial conference statement, and understands the legal effect of the statement. If necessary, the WCJ should dictate the minutes to a hearing reporter, taking care to ensure that all of the elements required for a trial setting (discussed above) are set forth in the minutes.

2. Trial Minutes: WCJ procedure

The WCJ shall conduct the proceedings so as to ensure that the minutes are complete and contain a proper record in accordance with WCAB Rule 10566. The stipulations and issues should be recited into the record, noting any changes in either the stipulations or issues as set forth in the MSC statement. The parties' agreement as to the accuracy of the stipulations and issues should be obtained on the record.

The appearances of all parties and attorneys should be noted. All exhibits offered on behalf of the parties should be identified in the minutes, along with any objections to any exhibits, and the WCJ's rulings on such objections.

All exhibits should be placed on a backer and marked, with each exhibit identified as to the party offering the exhibit. Stacks of records or reports should not be admitted as one exhibit; however, all reports from a single physician shall be identified as one exhibit, provided that the dates of each report are specified in the record. Records from a single provider or entity may also be listed as one exhibit, as long as separate pages from such exhibit can be easily identified.

Where testimony is taken, the WCJ shall ensure that all witnesses are clearly identified for the reporter, and that names are spelled out and titles identified. The WCJ shall provide a fair and unbiased summary of the testimony given by each witness, and clearly identify direct and cross-examination, re-direct and re-cross examination, and examination by the WCJ. Where motion pictures are presented as evidence, the Summary of Evidence shall include a brief summary of the contents of the motion pictures.

The WCJ shall provide the disposition order, including the time and action if any, required for submission. If the disposition is for an order taking off calendar or continuance, the reason for such disposition shall be clearly stated in the record.

The WCJ shall dictate the Summary of Evidence to the hearing reporter or provide it to the hearing reporter as soon after the hearing as possible and, unless authorized by the PWCJ, no more than three (3) business days after the date of hearing, unless the case is settled after the taking of testimony.

When no evidence is admitted and a trial is continued, taken off calendar, or the issue or issues for which the trial has been set are resolved, a WCJ may proceed without a hearing reporter and prepare the minutes by hand, utilizing the Minutes of Hearing form.

3. Trial Minutes: Hearing Reporter Procedure

The minutes of each trial will be prepared by the hearing reporter as soon after completion of the hearing as possible. The minutes shall contain:

- Name of workers' compensation judge and hearing reporter;
- Date, time and place of hearing;

- Starting and ending time of hearing;

- Appearances by parties and attorneys;

- Names of witnesses and by whom they are called;

- Stipulations, admissions and issues;

- Interlocutory orders made;

- A descriptive list of all exhibits received for identification or in evidence (with the identity of the party offering the same);

- Exhibits received into evidence, and the party offering the same;

- Disposition ordered, which shall include the time and action, if any, required for submission.

An estimate of the number of pages of transcript will be noted on the lower left-hand corner of the first page of the minutes.

Where testimony is received, the caption "Summary of Evidence" will follow the disposition order and will be single-spaced.

The original of the minutes and summary will be placed in the legal file. Copies for service will be placed on the inner left side of the folder if served by the WCJ's secretary rather than the hearing reporter, consistent with local office practice. Whenever possible, on multiple trial days, the Summary of Evidence should be served on the parties before the next trial session.